
HOUSE BILL No. 1263

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-23-4; IC 14-31-1; IC 14-31-19.

Synopsis: Timber sales and wilderness areas. Adds the promotion of tourism and recreation activities in state forests as public policies of the state. Establishes requirements that the department of natural resources must follow before entering into a contract to sell timber from a state forest. Provides that requirements to grant a contract to log the timber does not apply to existing contracts. Allows areas to be established and preserved as wilderness areas. Requires the department of natural resources to survey state forest lands every five years to determine if certain lands should be designated as nature preserves or wilderness areas.

Effective: Upon passage; July 1, 2006.

Pierce

January 10, 2006, read first time and referred to Committee on Natural Resources.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1263

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-23-4-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. It is the public
3 policy of Indiana to:

4 (1) protect and conserve the timber, water resources, **game and**
5 **nongame** wildlife, and topsoil in the state forests for the equal
6 enjoyment and guaranteed use of future generations; **and**

7 (2) **promote tourism and recreation activities, including**
8 **hunting and fishing, in state forests.**

9 However, by the employment of good husbandry, timber that has a
10 substantial commercial value may be removed in a manner that benefits
11 the growth of saplings and other trees by thinnings, improvement
12 cuttings, and harvest processes and at the same time provides a source
13 of revenue to the state and counties and provides local markets with a
14 further source of building material:

15 SECTION 2. IC 14-23-4-2.5 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
17 UPON PASSAGE]: **Sec. 2.5. Before the department may issue,**

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1 extend , or renew a permit, lease, or contract under section 3 of this
 2 chapter to remove timber from a state forest, the department must
 3 do the following:

4 (1) Prepare an environmental impact statement required
 5 under IC 13-12-4.

6 (2) Prepare a preliminary forest management plan that
 7 includes findings from the environmental impact statement.

8 (3) Hold a public hearing on the preliminary forest
 9 management plan.

10 (4) Allow public comments on the preliminary forest
 11 management plan to be submitted for at least sixty (60) days
 12 after the public hearing under subdivision (3).

13 (5) Prepare a final forest management plan.

14 SECTION 3. IC 14-23-4-3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **After**
 16 **meeting the requirements under subsection 2.5 of this chapter**, the
 17 department may issue permits, execute leases, or contract for the
 18 removal of merchantable timber from the state forests under this
 19 chapter. A permit, lease, or contract must do the following:

20 (1) Determine and fix the area within which it is lawful and in the
 21 best interests of the state to permit the removal of timber.

22 (2) Specify the nature of the timber to be removed.

23 (b) A permit, lease, or contract must include specific provisions for
 24 at least the following:

25 (1) Adequate fire prevention measures.

26 (2) The completion of harvesting operations, which includes the
 27 disposition of the slash and repair of rights-of-way.

28 (3) Granting of rights-of-way.

29 (4) Compliance with rules adopted by the department to carry out
 30 this chapter.

31 (5) Reports to the department by the person authorized to remove
 32 the timber.

33 (6) Authorization for the state forester or the state forester's
 34 designee to inspect the activities.

35 (7) Revocation of permits for failure to comply with any of the
 36 following:

37 (A) This chapter.

38 (B) Rules adopted under this chapter.

39 SECTION 4. IC 14-23-4-4 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state
 41 forester or the state forester's designee shall investigate the feasibility
 42 of the department entering into arrangements for removal and sale of

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merchable timber, taking into consideration the following:

- (1) Local market conditions, **including the impact on the value of privately owned timber in the state.**
- (2) Adaptability of terrain for cutting and removal of timber.
- (3) Potential hazards to surrounding stands of timber.
- (4) Potential effects on tourism and recreation activities.**
- (5) Potential effects on game and nongame wildlife.**
- ~~(4)~~ **(6)** Other matters that the department requests.

(b) The state forester or the state forester's designee shall inspect areas in which timber is removed to determine if cutting and removal of timber is conducted in a manner that protects and preserves topsoil and surrounding growths.

SECTION 5. IC 14-31-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. As used in this chapter, "system" means the nature preserves **and wilderness areas** held under this chapter.

SECTION 6. IC 14-31-1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.5. As used in this chapter, "wilderness area" means a remote and undeveloped area in which an estate, an interest, or a right has been formally dedicated under this chapter and that is not accessible by a motorized vehicle. The wilderness area must contain at least one (1) of the following:**

- (1) Notable natural or physical features.**
- (2) Rare or unusual plant or animal communities.**
- (3) Habitat for rare, threatened, or endangered species, or other nongame species of concern to the department.**

SECTION 7. IC 14-31-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. To secure for the people of Indiana of present and future generations the benefits of an enduring resource of areas, the state shall, acting through the department, acquire and hold in trust for the benefit of the people an adequate system of nature preserves **and wilderness areas** for the following uses and purposes:

- (1) For scientific research in fields such as ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, conservation, and similar fields.
- (2) For the teaching of biology, natural history, ecology, geology, conservation, and other subjects.
- (3) As habitats for plant and animal species and communities and other natural objects.
- (4) As reservoirs of natural materials.

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(5) As places of natural interest and beauty.

(6) As living illustrations of our natural heritage in which an individual may observe and experience natural biotic and environmental systems of the earth and the processes of the systems.

(7) To promote understanding and appreciation of the esthetic, cultural, scientific, and spiritual values of the areas by the people of Indiana.

(8) For the preservation and protection of nature preserves **and wilderness areas** against modification or encroachment resulting from occupation, development, or other use that would destroy the natural or aesthetic conditions of nature preserves **or wilderness areas**.

SECTION 8. IC 14-31-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. To give recognition to natural areas, the department shall establish and maintain a registry of natural areas of unusual significance. However, a registered area is not a nature preserve **or wilderness area** unless the area has been dedicated under this chapter.

SECTION 9. IC 14-31-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The department may, on behalf of the state, acquire nature preserves **and wilderness areas** by gift, devise, purchase, exchange, condemnation, or any other method of acquiring real property or an estate, an interest, or a right in real property. However, an interest owned by the state or by a subdivision of the state may be dedicated only by voluntary act of the agency having jurisdiction. The department may acquire the fee simple interest in an area or a lesser estate, interest, or right in an area, including any of the following:

(1) A leasehold estate.

(2) An easement:

(A) either:

(i) appurtenant; or

(ii) in gross; and

(B) either:

(i) granting the state specified rights of use;

(ii) denying to the grantor specified rights of use; or

(iii) both.

(3) A license.

(4) A covenant.

(5) Other contractual rights.

(b) A nature preserve **or wilderness area** may be acquired

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voluntarily for the consideration that the department considers advisable or without consideration.

SECTION 10. IC 14-31-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) An estate, an interest, or a right in an area may be dedicated by any of the following:

- (1) A state agency having jurisdiction of the area.
- (2) Any other unit of government within Indiana having jurisdiction of the area.
- (3) A private owner of the area.

(b) A dedication is effective and an area becomes a nature preserve **or wilderness area** only upon the acceptance of the articles of dedication by the department. Articles of dedication shall be placed on public record in the proper record in the county in which the area is located.

SECTION 11. IC 14-31-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. Articles of dedication may do the following:

- (1) Contain restrictions and other provisions relating to the following:
 - (A) Management.
 - (B) Use.
 - (C) Development.
 - (D) Transfer.
 - (E) Public access.
 - (F) Other restrictions and provisions that are necessary or advisable to further the purposes of this chapter.
- (2) Consistent with the purposes of this chapter, define the respective rights and duties of the owner or operating agency and of the department.
- (3) Provide procedures to be applied in case of violation of the restrictions and other provisions.
- (4) Recognize and create any of the following:
 - (A) Reversionary rights.
 - (B) Transfers upon conditions or with limitations.
 - (C) Gifts over.
- (5) Vary in provisions from one (1) nature preserve **or wilderness area** to another in accordance with differences in the characteristics and conditions of the different areas.

SECTION 12. IC 14-31-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. To further the purposes of and to implement this chapter, the department shall do the following:

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(1) Formulate policies for the selection, acquisition, use, management, and protection of nature preserves **and wilderness areas**.

(2) Formulate policies for the selection of areas suitable for registration under this chapter.

(3) Formulate policies for the dedication of areas as nature preserves **and wilderness areas**.

(4) Determine, supervise, and control the management of nature preserves **and wilderness areas** and adopt and amend rules necessary or advisable for the use and protection of nature preserves **and wilderness areas**.

(5) Encourage and recommend the dedication of areas as nature preserves **and wilderness areas**.

(6) Make surveys and maintain registries and records of unique natural areas within Indiana.

(7) Carry on interpretive programs and publish and disseminate information pertaining to nature preserves, **wilderness areas**, and other areas within Indiana.

(8) Promote and assist in the establishment, restoration, and protection of and advise in the management of natural areas and other areas of educational or scientific value and otherwise to foster and aid in the establishment, restoration, and preservation of natural conditions within Indiana other than in the system.

SECTION 13. IC 14-31-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) The nature preserves **and wilderness areas** within the system:

(1) are to be held in trust for the benefit of the people of Indiana of present and future generations for those uses and purposes expressed in this chapter that are not prohibited by the articles of dedication;

(2) are declared to be put to the highest, best, and most important use for the public benefit;

(3) shall be managed and protected in the manner approved by and subject to the rules adopted by the department; and

(4) may not be taken for any other use except another public use:

(A) after a finding by the commission of the existence of an imperative and unavoidable public necessity for the other public use; and

(B) with the approval of the governor.

(b) Except as otherwise provided in the articles of dedication, the department may:

(1) grant, upon the terms and conditions that the department

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determines, an estate, an interest, or a right in; or

(2) dispose of;

a nature preserve **or wilderness area**.

(c) The department may take action under subsection (b) only:

(1) after a finding by the commission of the existence of an imperative and unavoidable public necessity for the grant or disposition; and

(2) with the approval of the governor.

SECTION 14. IC 14-31-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Before the commission:

(1) makes a finding of the existence of an imperative and unavoidable public necessity under section 15 of this chapter;

(2) grants an estate, an interest, or a right in a nature preserve **or wilderness area** under section 15 of this chapter;

(3) disposes of a nature preserve **or wilderness area** or an estate, an interest, or a right in a nature preserve **or wilderness area** under section 15 of this chapter; or

(4) enters into an amendment of articles of dedication under section 13 of this chapter;

the department must give notice of the proposed action and an opportunity for any person to be heard.

(b) The notice must be published at least one (1) time in a newspaper printed in the English language with a general circulation in each county in which the nature preserve **or wilderness area** is located. The notice must do the following:

(1) Set forth the substance of the proposed action.

(2) Describe, with or without legal description, the nature preserve **or wilderness area** affected.

(3) Specify a place and time not less than thirty (30) days after the publication for a public hearing before the commission on the proposed action.

(c) All persons desiring to be heard shall be given a reasonable opportunity to be heard before action by the commission on the proposal.

SECTION 15. IC 14-31-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. All units, departments, agencies, and instrumentalities of the state, including:

(1) counties;

(2) townships;

(3) municipalities;

(4) public corporations;

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- (5) boards;
- (6) commissions;
- (7) colleges; and
- (8) universities;

may and are urged to dedicate as nature preserves **and wilderness areas** suitable areas or parts of areas within their jurisdiction.

SECTION 16. IC 14-31-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) Except as provided in subsection (b), this chapter does not interfere with:

- (1) the purposes stated in the establishment of or pertaining to; or
 - (2) the proper management and development of;
- a state or local park, preserve, wildlife refuge, or other area.

(b) An agency administering an area dedicated as a nature preserve **or wilderness area** under this chapter is responsible for preserving the character of the area in accordance with the articles of dedication and the applicable rules concerning nature preserves **and wilderness areas** that the department adopts.

(c) The dedication of an area as a nature preserve **or wilderness area** or an action taken by the department under this chapter does not void or replace a protected status under law that an area would have if the area were not a nature preserve **or wilderness area**. The protective provisions of this chapter are supplemental to the protected status under law.

SECTION 17. IC 14-31-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) **Before November 1, 2006, and every five (5) years subsequently the department shall conduct a survey of state forest lands for the purpose of designating areas as nature preserves and wilderness areas.**

(b) **The department shall allow public comment in the survey required under subsection (a).**

SECTION 18. [EFFECTIVE UPON PASSAGE] (a) **This act does not affect the validity of a permit issued or a contract or lease executed by the department of natural resources before the effective date of this SECTION for the removal of merchantable timber from state forests.**

(b) **Notwithstanding IC 14-23-4, as amended by this act, a person who, before the effective date of this SECTION, has been issued a permit or who has executed a lease or contract with the department of natural resources may remove merchantable timber from the state forests under the terms and conditions of the permit, lease, or contract. However, the permit, lease, or contract may not**

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- 1 **be extended or renewed by the department of natural resources.**
- 2 **(c) This SECTION expires June 1, 2016.**
- 3 **SECTION 19. An emergency is declared for this act.**

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